

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-16 are currently pending, Claims 3, 7, 8, 10, 12, and 13 having been amended by the present Amendment, and Claims 15 and 16 having been added for consideration. The changes and additions to the claims are supported by the originally filed specification, for example, on page 18, lines 13-27; and Figures 5 and 11. Thus, no new matter has been added.

In the outstanding Office Action, Claims 1-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hwang et al. (U.S. Patent No. 6,414,943, hereinafter “Hwang”) in view of Yamamoto (U.S. Patent Publication No. 2002/0024936); and Claim 13 was rejected under 35 U.S.C. § 102(b) as being unpatentable over Hwang.

With respect to the rejection of Claim 1 under 35 U.S.C. § 103(a), Applicant respectfully traverses this ground of rejection, as independent Claim 1 recites novel features not taught or rendered obvious by the applied references. To that end, Claim 1 recites, *inter alia*,

a transmit buffer for storing data about a plurality of communication services on a communication-service-by-communication-service basis or on a transmit-channel-by-transmit-channel basis;

an amount-of-data information determining unit that monitors the data which are stored in said transmit buffer on a communication-service-by-communication-service basis or on a transmit-channel-by-transmit-channel basis to determine at least one value indicating an amount-of-data stored on a communication-service-by-communication-service basis or transmit-channel-by-transmit-channel basis; and

a transmitting unit that transmits the at least one value indicating the amount-of-data stored on the communication-service-by-communication-service basis or transmit-channel-by-transmit-channel basis determined by said amount-of-data information determining unit to a base station.

Applicant respectfully submits that Hwang and Yamamoto fail to disclose or suggest these features of Claim 1.

Hwang describes a method of controlling radio bearers including the steps of: a MAC 1a of a mobile station 1 requesting a network 2 to provide a radio packet data service (S1) and a MAC 2a of the network 2 establishing a plurality of radio bearers and sending data stored in a transmit buffer 2b to the plural radio bearers according to the radio packet data service (S2). (See Hwang, column 4, lines 10-24).

The Office Action acknowledges that Hwang fails to disclose or suggest the “mobile unit comprising: ... an amount-of-data information determining unit that monitors the data which are stored in said transmit buffer,” as recited in previously presented Claim 1. (See Office Action, pages 2 and 3).

The Office Action relies on Yamamoto to remedy the deficiencies of Hwang with regard to previously presented Claim 1.

Yamamoto describes a packet transmission system having terminal units that transmit data to a resource monitoring device of a network for sending the data to another terminal unit via the network. (See Yamamoto, Abstract). In particular, Yamamoto shows, in Figure 1, terminal units A, B and C capable of making access to a resource monitoring device 2 of a network 1 such that each terminal unit is provided with a transmission buffer 15 for storing data to be transmitted to the network 1 having a resource management section 7. (See Yamamoto, paragraphs [0005] and [0006]; and Figure 1).

The Office Action appears to assert that each terminal unit A, B and C provided with the transmission buffer 15 for storing data to be transmitted to the network 1 which includes the resource management section 7 of Yamamoto corresponds to the “mobile unit comprising: ... an amount-of-data information determining unit that monitors the data which are stored in said transmit buffer,” as recited in previously presented Claim 1. (See Office

Action, page 3). However, Yamamoto merely describes that *the terminal units A-C include the transmission buffer 15* and that *the separate network 1 includes the resource monitoring device 2 having the resource management section 7* such that *when the resource management section 7 receives a resource request from a terminal unit that is going to transmit data, it determines a resource that should be used by the terminal unit*. (See Yamamoto, paragraphs [0005] and [0006]; and Figure 1).

Yamamoto does not describe that *the terminal unit A, B, or C* (i.e., as the mobile station) *includes the resource management section 7* (i.e., as the asserted amount-of-data information determining unit) *which monitors the data which is stored in the transmission buffer 15* (i.e., as the transmit buffer).

In other words, Yamamoto simply describes that the network 1 includes the resource monitoring device 2 having the resource management section 7 which determines resources that should be used by the terminal units A-C upon receipt of a resource request from the terminal units A-C but does not describe that the terminal units A-C actually include the resource management section 7 or that each of the terminal units A-C monitor the data stored in the respective transmission buffers 15.

Additionally, Applicant notes that the resource monitoring device 2 of Yamamoto receives data from the transmission buffer 15 in each of the terminal units A-C. However, Applicant submits that since this function of Yamamoto is provided for allowing the plurality of terminal units A-C to use the network resources efficiently, it would not have been obvious to incorporate the resource monitoring/management function into a simple specific terminal unit. (See Yamamoto, paragraphs [0002]-[0008]). MPEP 2143.01 states:

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

...

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

Accordingly, Applicant submits that it would not have been obvious for the terminal unit A of Yamamoto to include the resource monitoring device 2 since the terminal unit A would have to monitor not only its own transmission buffer but also those in the terminal units B and C, thereby significantly increasing the processing load in terminal A.

Further, Applicant submits that even assuming *arguendo* that the mobile station 1 of Hwang could be modified in view of the resource monitoring device 2 of Yamamoto as asserted in the Office Action, the resource monitoring device 2 of Yamamoto would have to be provided separately from the mobile station 1 of Hwang.

Therefore, Hwang and Yamamoto do not disclose or suggest the “***mobile station comprising***: a transmit buffer for storing data about a plurality of communication services on a communication-service-by-communication-service basis or on a transmit-channel-by-transmit-channel basis; ***an amount-of-data information determining unit that monitors the data which are stored in said transmit buffer on a communication-service-by-communication-service basis or on a transmit-channel-by-transmit-channel basis to determine at least one value indicating an amount-of-data stored on a communication-service-by-communication-service basis or transmit-channel-by-transmit-channel basis;*** and a transmitting unit that transmits the at least one value indicating the amount-of-data stored on the communication-service-by-communication-service basis or transmit-channel-by-transmit-channel basis determined by said amount-of-data information determining unit to a base station,” as recited in Claim 1.

In view of these considerations, it is respectfully submitted that Hwang and Yamamoto fail to disclose or suggest or make obvious the pending claims. Accordingly, withdrawal of the rejection based on Hwang and Yamamoto is respectfully requested for at least these reasons.

Additionally, although differing at least in scope, independent Claims 10-14 patentably distinguish over Hwang and Yamamoto for at least the reasons discussed above with respect to Claim 1. Thus, Applicants respectively submit that independent Claims 10-14 patentably distinguish over Hwang and Yamamoto, either alone or in proper combination.

Consequently, in light of the above discussion and in view of the present Amendment, the outstanding grounds for rejection are believed to have been overcome. The present application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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